

5/28/2019

JULIA C. DUDLEY, CLERK
BY: s/ J. Vasquez

DEPUTY CLERK

UNITED STATES DISTRICT COURT
THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

UNITED STATES OF AMERICA)
)
v.) Court No. 5:19-cv-00042
)
EIGHT FIREARMS)

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

Now comes the plaintiff, United States of America, by and through its attorney, Krista Consiglio Frith, Assistant United States Attorney, and brings this Complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure:

NATURE OF THE ACTION

1. This is a civil action *in rem* brought to forfeit and condemn certain personal property assets to the use and benefit of the United States, pursuant to 18 U.S.C. § 924(d), for violations of 18 U.S.C. §§ 922(g)(1) and (3).

THE DEFENDANTS *IN REM*

2. The defendant property consists of the following property:

	CATS #	Item Description
(1)	19-ATF-005897	HS Products (IM METAL) XDS Pistol CAL:45 SN:S4134758
(2)	19-ATF-006181	Remington Arms Company, INC. 770 Rifle CAL:243 SN:71551122
(3)	19-ATF-006197	Remington Arms Company, INC. 870 Shotgun CAL:12 SN:RS63829C
(4)	19-ATF-006198	Remington Arms Company, INC. 700 Rifle CAL:6 SN:G6753803
(5)	19-ATF-006202	Mossberg 320 Rifle CAL:22 SN:587921
(6)	19-ATF-006212	Savage 340 Rifle CAL:30-30 SN: None
(7)	19-ATF-006219	Hipoint 995 Rifle CAL:9 SN:F16090
(8)	19-ATF-006221	Savage 947E Shotgun CAL:12 SN:P154644

The defendant property was seized from Merle Brook Stephens on December 7, 2018, at the following location: 2189 Alum Springs Road, Basye, Virginia, and is presently in the custody of the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) at the Winchester Satellite Office.

JURISDICTION AND VENUE

3. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345 and over an action for forfeiture under 28 U.S.C. § 1355(a).

4. This Court has *in rem* jurisdiction over the defendant property under 28 U.S.C. § 1355(b).

5. Venue is proper in this district pursuant to 28 U.S.C. § 1355(b)(1) because the acts giving rise to this forfeiture occurred in this district and pursuant to 28 U.S.C. § 1395 and because the property is located in this district.

6. Upon the filing of this Complaint, the plaintiff requests that the Clerk of Court issue a Warrant of Arrest *in rem* pursuant to Supplemental Rule G(3)(b)(i), which the plaintiff will execute upon the property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

BASIS FOR FORFEITURE

7. The defendant property is subject to forfeiture pursuant to 18 U.S.C. § 924(d) as property that is involved or used in the commission of a violation of 18 U.S.C. § 922(g).

FACTS

8. The facts supporting this Complaint are stated in the attached Declaration of Special Agent Christian Bockmann, ATF, and are incorporated by reference herein.

WHEREFORE, the United States of America respectfully requests that the Clerk

of Court issue a Warrant of Arrest *in rem* pursuant to Supplemental Rule G(3)(b); that due notice be given to all parties to appear and show cause why the forfeiture should not be decreed; that judgment be entered declaring the defendant property to be condemned and forfeited to the United States of America for disposition according to law; and that the United States of America be granted such other and further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

THOMAS T. CULLEN
United States Attorney

s/Krista Consiglio Frith
Assistant United States Attorney
VSB89088
United States Attorney's Office
P.O. Box 1709
Roanoke, VA 24008
TEL (540) 857-2250
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Krista.frith@usdoj.gov

VERIFICATION

I am a Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives, and one of the agents assigned the responsibility for the above-captioned matter. I have read the contents of the foregoing Complaint for Forfeiture, and the statements contained therein are true to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 24th day of May, 2019.



Christian Bockmann
Special Agent, ATF

AFFIDAVIT IN SUPPORT OF FORFEITURE IN REM

I, Christian P. Bockmann, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), being duly sworn, state as follows:

BACKGROUND AND EXPERIENCE

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) and have been so employed since 2009. I am currently assigned to the ATF Martinsburg Field Office, Washington Field Division. Prior to becoming an ATF agent, I was a United States Capitol Police Officer in Washington, DC for approximately seven years. In my capacity as a law enforcement officer, I have investigated individuals for the illegal possession and use of firearms, illegal possession and distribution of controlled substances, and for committing violent crimes. Many of these investigations led to the arrest and conviction of individuals for violations of both state and federal firearms and drug trafficking laws.

2. This affidavit is based on my personal knowledge, information conveyed to me by other law enforcement officers, and my review of evidence, documents, and records obtained during the course of the investigation. This affidavit only contains the information necessary to establish probable cause. As such, this affidavit does not include each and every fact known by me or known by the government.

3. As set forth in detail below, the Subject Property is forfeitable under 18 U.S.C. § 924(d) because they were in possession of Merle Stephens, in violation of 18 U.S.C. § 922(g)(3) and 18 U.S.C. § 922(g)(1).

THE INVESTIGATION

4. On December 7, 2018, ATF and local law enforcement executed multiple federal arrest and search warrants in Shenandoah County, Virginia in relation to a large federal drug

conspiracy investigation. After the arrest of one of the co-conspirators shortly after the execution of the search warrant, he/she gave information about Merle STEPHENS who was wanted on a state arrest warrant, and who was selling large quantities of methamphetamine. The co-conspirator stated that STEPHENS had a large number of firearms in a white van that he/she saw one week prior, and that he/she was present when STEPHENS traded methamphetamine in exchange for several of the firearms that were in the white van. The co-conspirator continued that STEPHENS was collecting large quantity of firearms as an investment so if STEPHENS was arrested or needed money he could sell the firearms. The Co-conspirator stated that he/she saw the van one week prior at 2189 Alum Springs Road, Basye, Virginia, which is where STEPHENS was residing. The Co-conspirator stated that he/she knows that STEPHENS was residing at the residence because he/she stayed overnight at his residence with him on several occasions, he/she used to come over to that residence to hang out with STEPHENS, as well as purchase methamphetamine from STEPHENS there, and STEPHENS also had his clothes and tools there.

5. STEPHENS was arrested later that same day on a state arrest warrant. During STEPHENS' search incident to arrest, law enforcement found a quantity of methamphetamine and other illegal narcotics, a large quantity of US currency, and a handgun. Law enforcement later located a white Chrysler minivan at 2189 Alum Springs Road, Basye, Virginia, which is where the Co-conspirator stated STEPHENS was living at the time. A large number of firearms could be clearly seen inside the van, through the side window. Law Enforcement located the owner of the van, Ms. Jenifer Sloat, who gave verbal and written consent for law enforcement to search the van. Upon searching the van, law enforcement located the defendant property: REMINGTON ARMS COMPANY, INC., TYPE: RIFLE, MODEL: 770, CAL: 243, SN:

71551122, REMINGTON ARMS COMPANY, INC., TYPE: RIFLE, MODEL: 770, CAL: 243, SN: 71551122, SAVAGE, TYPE: SHOTGUN, MODEL: 948, CAL: 12, SN: NONE MOSSBERG, TYPE: RIFLE, MODEL: 320, CAL: 22, SN: 587921, REMINGTON ARMS COMPANY, INC., TYPE: SHOTGUN, MODEL: 870, CAL: 12, SN: RS63829C REMINGTON ARMS COMPANY, INC., TYPE: RIFLE, MODEL: 580, CAL: 22, SN: 1123570, UNKNOWN MANUFACTURER, TYPE: SHOTGUN, MODEL: UNKNOWN TYPE, CAL: ZZ, SN: NONE, UNKNOWN MANUFACTURER, TYPE: SHOTGUN, MODEL: UNKNOWN TYPE, CAL: ZZ, SN: NONE, MOSSBERG, TYPE: SHOTGUN, MODEL: 500, CAL: 12, SN: P559983, NEW ENGLAND FIREARMS, TYPE: SHOTGUN, MODEL: PARDNER, CAL: 410, SN: NN328597, SAVAGE, TYPE: RIFLE, MODEL: 87A, CAL: 22, SN: NONE, HARRINGTON AND RICHARDSON, TYPE: RECEIVER/FRAME, MODEL: UNKNOWN TYPE, CAL: ZZ, SN: L61378, SAVAGE, TYPE: RIFLE, MODEL: 340, CAL: 30-30, SN: NONE, MARLIN FIREARMS CO., TYPE: RIFLE, MODEL: 39D, CAL: 22, SN: NONE, SAVAGE, TYPE: SHOTGUN, MODEL: UNKNOWN TYPE, CAL: ZZ, SN: NONE, SAVAGE, TYPE: SHOTGUN, MODEL: STEVENS 79, CAL: 410, SN: D277315, HIPOINT, TYPE: RIFLE, MODEL: 995, CAL: 9, SN: F16090, UNKNOWN MANUFACTURER, TYPE: SHOTGUN, MODEL: UNKNOWN TYPE, CAL: ZZ, SN: NONE, UNKNOWN MANUFACTURER, TYPE: SHOTGUN, MODEL: UNKNOWN TYPE, CAL: ZZ, SN: 906419. Sloat stated that none of the firearms were hers, she left the vehicle at STEPHENS's residence to get fixed at the end of Summer 2018, the vehicle did not have firearms in it when she left the vehicle, and she has not been back to the vehicle since leaving at 2189 Alum Springs Road. STEPHENS, in a post arrest Mirandized interview, denied

that he had firearms in a van, but later admitted that some of his fingerprints might be on the firearms because of him shooting them, and that he also might have tools in the van as well.

6. Following the federal arrest of Katie HARLOW, and during the federal search warrant at Katie HARLOW's residence on December 7, 2018, Investigators saw HARLOW's Chrysler Town and County Minivan drive by the location of the search warrant of HARLOW's residence. Officers followed the vehicle and executed a lawful traffic stop. The driver of the vehicle was Christopher Allen MILLER, who was arrested for driving while suspended or revoked. During a search incident to arrest, Officers found a small bag containing suspected crystal methamphetamine. MILLER is currently charged in Shenandoah General District Court with Possession of a controlled substance, with his next court date on June 21, 2019.

7. During a federal proffer interview, Katie HARLOW admitted that she would supply methamphetamine to MILLER for his personal use, and knew that MILLER was selling methamphetamine. HARLOW stated that she used methamphetamine with both MILLER and STEPHENS on more than one occasion. HARLOW stated that MILLER was purchasing methamphetamine several times a week from either her, or Merle STEPHENS. HARLOW explained that MILLER used to hang around STEPHENS, and do whatever STEPHENS asked of him. During a legal search of HARLOW's cell phone, the affiant found conversations between HARLOW and MILLER that are consistent with narcotic transactions; i.e. MILLER purchasing different quantities of methamphetamine from HARLOW.

8. Firearm traces were conducted on: REMINGTON ARMS COMPANY, INC., TYPE: RIFLE, MODEL: 770, CAL: 243, SN: 71551122, REMINGTON ARMS COMPANY, INC., TYPE: RIFLE, MODEL: 770, CAL: 243, SN: 71551122, SAVAGE, TYPE: SHOTGUN, MODEL: 948, CAL: 12, SN: NONE MOSSBERG, TYPE: RIFLE, MODEL: 320, CAL: 22,

SN: 587921, REMINGTON ARMS COMPANY, INC., TYPE: SHOTGUN, MODEL: 870, CAL: 12, SN: RS63829C REMINGTON ARMS COMPANY, INC., TYPE: RIFLE, MODEL: 580, CAL: 22, SN: 1123570, UNKNOWN MANUFACTURER, TYPE: SHOTGUN, MODEL: UNKNOWN TYPE, CAL: ZZ, SN: NONE, UNKNOWN MANUFACTURER, TYPE: SHOTGUN, MODEL: UNKNOWN TYPE, CAL: ZZ, SN: NONE, MOSSBERG, TYPE: SHOTGUN, MODEL: 500, CAL: 12, SN: P559983, NEW ENGLAND FIREARMS, TYPE: SHOTGUN, MODEL: PARDNER, CAL: 410, SN: NN328597, SAVAGE, TYPE: RIFLE, MODEL: 87A, CAL: 22, SN: NONE, HARRINGTON AND RICHARDSON, TYPE: RECEIVER/FRAME, MODEL: UNKNOWN TYPE, CAL: ZZ, SN: L61378, SAVAGE, TYPE: RIFLE, MODEL: 340, CAL: 30-30, SN: NONE, MARLIN FIREARMS CO., TYPE: RIFLE, MODEL: 39D, CAL: 22, SN: NONE, SAVAGE, TYPE: SHOTGUN, MODEL: UNKNOWN TYPE, CAL: ZZ, SN: NONE, SAVAGE, TYPE: SHOTGUN, MODEL: STEVENS 79, CAL: 410, SN: D277315, HIPOINT, TYPE: RIFLE, MODEL: 995, CAL: 9, SN: F16090, UNKNOWN MANUFACTURER, TYPE: SHOTGUN, MODEL: UNKNOWN TYPE, CAL: ZZ, SN: NONE, UNKNOWN, MANUFACTURER, TYPE: SHOTGUN, MODEL: UNKNOWN TYPE, CAL: ZZ, SN: 906419. Although MILLER claims he is the owner of all these firearms, the Remington 870 express shotgun was the only firearm to trace back to MILLER being the original purchaser 2582 days prior.

9. When STEPHENS was arrested, the HS PRODUCTS (IM METAL), TYPE: PISTOL, MODEL: XDS, CAL: 45, SN: S4134758 was taken from STEPHENS at the time of his arrest from a book bag that STEPHENS was carrying. In a Mirandized, post-arrest interview, STEPHENS admitted to purchasing the handgun two weeks prior to his arrest, on December 07, 2018, for six hundred dollars (\$600) from a person named "Sparky". STEPHENS

went on to say the reason that he bought the firearm was to protect himself from being robbed. When ask if people were robbing STEPHENS for drugs or money STEPHENS replied “everything”.

CONCLUSION

10. Based upon your affiant's knowledge of the investigation, the circumstances surrounding the seizure, and proffers, your affiant believes that MILLER is not the owner of the firearms. The firearms were seized from the location that STEPHENS was residing at, not MILLER. The vehicle that the firearms were located in also contained STEPHENS's tools in it. STEPHENS admitted to shooting the firearms for target practice and that his fingerprints could possibly be on them. A reliable co-conspirator admits to being present when STEPHENS traded methamphetamine in exchange for firearms, and that STEPHENS admitted to the co-conspirator that he is collecting firearms as a financial investment. The affiant also believes that MILLER is an unlawful user of methamphetamine, and addicted to those controlled substances. Your affiant believes that he is prohibited from possessing firearms or ammunition. As such, your affiant submits that MILLER is not the owner of any of the firearms and has no rights to them. Based on the investigation, if MILLER is in possession of any firearms and/or ammunition, he would be in violation 18 U.S.C. § 922(g)(3) and the subject firearms and ammunition are subject to forfeiture pursuant to 18 U.S.C. § 924(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 25 day of May 2019.



Christian Bockmann
Special Agent
Bureau of Alcohol, Tobacco, Firearms and
Explosives

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 United States

(b) County of Residence of First Listed Plaintiff _____
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Krista Consiglio Frith
 310 1st St. SW,
 Roanoke, VA 24011

DEFENDANTS
 Eight Firearms

County of Residence of First Listed Defendant Shenandoah County, VA
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
 THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability PERSONAL PROPERTY <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION	FEDERAL TAX SUITS
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
18 U.S.C 924(d)

VI. CAUSE OF ACTION

Brief description of cause:
 Forfeiture of Firearms

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
 UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Dillon

DOCKET NUMBER **5:18CR00038**

DATE

05/28/2019

SIGNATURE OF ATTORNEY OF RECORD

s/Krista Frith

FOR OFFICE USE ONLY

RECEIPT #

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 No fee required

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